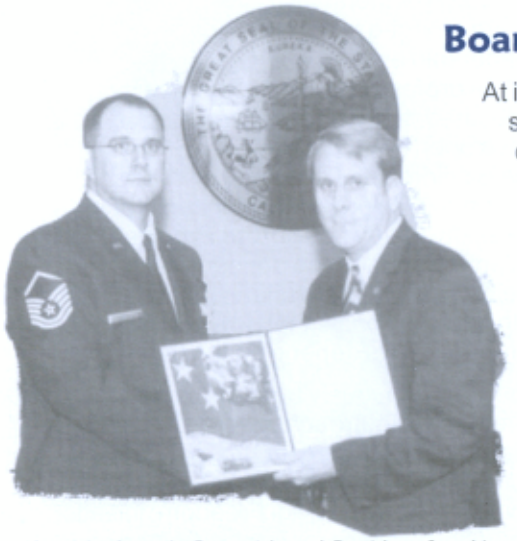
Respiratory Update

March 2004

Board Honors Respiratory Therapist Troops



MSgt. Matthew A. Petrovich and President Svonkin

At its November 14th meeting, the Respiratory Care Board of California held a special ceremony to proudly honor the following California licensed respiratory care professionals who served in the armed forces during Operation Iraqi Freedom:

Matthew A. Petrovich, CRT, RCP, MSgt, USAF
Michael C. Hermon, CRT, RCP, SSgt, USAF
Fred T. Maddox II, CRT, RCP, SSgt, USAF
Lisa M. Pickett, RRT, CPFT, RCP, SSgt, USAF
Jeffrey S. Rutherford, CRT, RCP, MSgt, USAF
Daniel L. Severson, RRT, RCP, SCPO, US Navy
Darrell R. Waite, CRT, RCP, TSgt, USAF
Teddy L. Denison, RRT, RCP, PO2, US Navy
Austin E. DelaCruz Jr., RRT, RCP, TSgt, USAF
Cloria E. Smith, CRT, RCP, TSgt, USAF
Claire L. Zink, CRT, RCP, Sgt, US Army

President Svonkin opened the ceremony noting the Board had unanimously agreed to recognize and express their appreciation to respiratory care practitioners in the military for their dedication and commitment to the profession and defending our country and our liberties. President Svonkin stated that regardless of political views, one thing we all hold to be clear is "that the work, people in the military do, is to protect our freedom and rights" and the fact that you are all RCPs means a great deal to the profession. He added that, "The fact is, you served our country with distinction and honor and served this profession the same way, and we are grateful to you." *...continued on page 3*

License Verification Available Online! @ www.rcb.ca.gov

["Verify a License" is on the right-hand side of the home page]

The Board continues to encourage employers and licensees to utilize the online License Verification system which is available 24 hours a day, 7 days a week. Information regarding license status is updated daily (Monday - Friday) so you are sure to receive the most current information available. The use of the online system assists the Board in reducing expenses associated with staff resources and faxing costs. So, by using the online system, you will be doing your part to help keep fees down!

New Continuing Education Requirements: Delayed Implementation

In our last newsletter it was reported new continuing education requirements were to go into effect on November 1, 2003. Due to recommendations made by the Office of Administrative Law and direction provided by a subsequent Governor's Executive Order, the regulation package containing the new requirements was pulled back for further review and assessment. While this has delayed the effective date of the new continuing education requirements, the Board is optimistic that the package will be filed by March 14th and in effect by June 1, 2004. We will keep you posted as information becomes available. For the most up-to-date information, watch the Board's Web site at www.rcb.ca.gov.

Inside This Issue

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President's Message

Scott J. Svonkin
President

It has been a tremendous honor to serve as the first public member to be President of this Board. When my fellow Board members re-elected me to serve a second term it affirmed my commitment to the leadership path we as a Board have undertaken in my first term. I could not and would not serve as President without the support of the dedicated Board members who make it easy to lead this regulatory Board whose primary mission it is to protect all California consumers. I am proud of all that we have accomplished this year and, most of all, the new partnerships that we have begun to forge with the profession we are charged to regulate. The more I work with the CSRC and its leadership and the AARC the more optimistic I am about the future of this profession. I know that we in California have some of the best educated, trained and dedicated RCP's in the Country. I am honored to have been re-elected to serve as the Board's President in 2004. With the confidence of my fellow Board members, I am pleased to have the opportunity to provide continued leadership as we uphold our mandate and strive to achieve our mission. In my position as President, I have had the privilege and pleasure of working first-hand with professionals who are dedicated, diligent and committed to maintaining the utmost integrity of the respiratory profession. As a public member, this experience has amplified my great respect for the professionals that provide respiratory services in California and the importance with which consumers depend on those professionals.

Since I became President in 2003, the Board has been continuously busy focusing on a number of critical issues. These issues have ranged from: a rigorous outreach project targeting all California high schools which was subsequently suspended due to resource reductions; establishment of a respiratory care practitioner recognition program; implementation of a satisfaction survey; recognition of licensed RCP's who served during Operation Iraqi Freedom; initiation of the process to revise CE requirements; revising the evaluation process for foreign trained candidates; establishing education waiver criteria; expansion of the cite and fine program; and pursuing the authority to establish a mandatory "Law and Professional Ethics" course.

While much has been accomplished, there remains much to be done. With the state forcing on us mandatory staffing and budgetary reductions, the Board was compelled to take a realistic approach toward establishing a list of its highest priorities. After consideration of all member input, the following issues were assigned priority, in their respective order: 1) Pursuing additional research for certification of technicians working in the fields of pulmonary function testing, polysomnography, and hyperbaric oxygen delivery; 2) Continuing the production and distribution of the biannual newsletter; 3) Instituting a mandatory "Law and Professional Ethics" course; and 4) Facilitating the reform of home care regulation as it pertains to respiratory care.

When I received an invitation to speak at the CSRC's Board of Directors meeting in January, I welcomed the opportunity to share the Board's priorities as well as my perspectives with the CSRC leadership. I understand and value the importance of working with organizations that represent the RCP's, such as the CSRC, SEIU, and AARC, in joint efforts towards common goals, such as current issues affecting patient care and increasing the number of qualified therapists to address the RCP shortage. These organizations have offered invaluable contributions in many areas, including the established priority of instituting a mandatory 'Law and Professional Ethics' course which will bring about increased safety for California consumers.

This year, the CSRC should also be applauded for its willingness to take on the role of coordinating guest speakers in response to "career fair" events held throughout California, since the Board was forced to suspend this activity due to limited resources. I am convinced that participation in these events is essential to raising awareness of the profession for individuals interested in pursuing a healthcare career. In fact, I feel so passionate about this important and respected profession, that I have volunteered my own personal time to speak not only as President of the Board, but from the perspective of a respiratory patient.

Along with many other agencies, the Board has been forced to face the reality of resource reductions. However, amidst these trying times, I assure you that the Board has not wavered its commitment to the respiratory profession or the consumers it is charged with protecting. Along with its dedicated and hard-working staff, the Board continues to achieve many of its strategic goals and move forward on important issues, such as finalizing its pending regulation packages, and implementing a contract aimed at collecting a substantial amount of outstanding costs.

The Board also continues to strive to encourage more practitioners to become involved with the regulation of their profession. With this in mind, our Board decided that the typically scheduled "Spring" meeting be changed to Thursday, June 24th, so that it could be held in conjunction with CSRC's Annual Convention. The Board unanimously supported this idea and I now hope to see every practitioner in the San Diego region at the Board meeting so we can hear from you and I can personally thank you for your skill, knowledge and dedication to saving lives and improving the quality of life for so many Californians.

I am extremely proud of the direction the Board is taking and to be able to lead the way during the planning and early development stages of many significant changes. As always, your comments and input are welcome and your involvement in the regulation of your profession is encouraged.

Board Honors Respiratory Therapist Troops *(continued from page 1)*

Master Sergeant Matthew A. Petrovich thanked the Board for honoring him and his fellow service men and women and stated, "that if not for the support of Emily, Sutter Hospital, Chief McGillivray, and my children, I wouldn't have been able to do it. So when you see the badge or you see the name on the uniform, please remember their families also." Several honorees echoed MSgt. Petrovich's sentiments thanking loved ones.


Senator Michael Machado

Senator Mike Machado serving Sacramento, San Joaquin, Solano, and Yolo Counties made a personal appearance at the ceremony to honor each service man and woman. Senator Machado acknowledged Travis Air Force Base was within his district (from which many of the honorees are stationed) and stated, this base "is so critical to the gateway to the rest of the world for our armed forces and is critical to our defense. It is very important, because of the makeup of the armed forces today, to rely on reservists and those in active duty who, working together carry out the mission." Prior to presenting each honoree with a certificate of recognition on behalf of himself and Assemblywoman Lois Wolk, Senator Machado acknowledged the tremendous efforts the service men and women have made and continue to make "for the safety of our freedom and support of the values of America." While other legislators were unable to attend the ceremony, Assemblyman Dave Cox, Assemblyman Tim Leslie, Senator Deborah Ortiz, and Senator Rico Oller provided certificates of recognition as well.

A special thank you to Quality Registry Services in Long Beach, for their generous donation in providing lunch for our honorees.

President Svonkin also expressed the Board's appreciation to the families and employers, as well as other RCPs, who support their loved ones while they are deployed and keep everything together, in so many respects at home. The Board members and each member of the audience rose to a standing ovation following President Svonkin's final words, "We salute these practitioners for their courage and dedication. These service men and women have answered the call of duty to defend our country, and they've done this on top of their ongoing commitment to professionalism required in the field of respiratory care."

Pictured above, from left, are: Respiratory Care Armed Forces Recognition Award recipients Matthew A. Petrovich, Master Sgt., Air Force, Orangevale; Michael C. Hermon, Staff Sgt., Air Force, North Highlands; Fred T. Maddox II, Staff Sgt., Air Force, Travis AFB; Lisa M. Pickett, Staff Sgt., Air Force, Vacaville; Jeffrey S. Rutherford, Master Sgt., Air Force, Rocklin; Daniel L. Severson, Senior Chief Petty Officer, Navy, Buena Park; Darrell R. Waite, Tech. Sgt., Air Force, Vacaville; and Board President Scott J. Svonkin. Award recipients not pictured are: Teddy L. Denison, Petty Officer 2nd Class, Navy; San Diego; Austin E. DelaCruz Jr., Tech. Sgt., Air Force, Fairfield; Cloria E. Smith, Tech. Sgt., Air Force, Fairfield; and Claire L. Zink, Sgt., Army, Selma.

Updates *(since November 2003)*

- ☺ Officers: The Board elected Scott J. Svonkin to serve a second term as President and Kim Cooper Salinger, MBA, RRT, RCP to serve as Vice-President in 2004.
- ☺ Budget Reduction: The FY 03/04 State Budget Act included numerous cuts to personnel services for all State agencies. The Board's personnel services incurred a 12% or $121,043 reduction, which resulted in the loss of two staff members, a reduction in time-base for one staff member, and elimination of overtime and per diem appropriations.
- ☺ Priorities: After taking into consideration recent staff reductions, strategic planning goals and objectives, and the Joint Legislative Sunset Review Committee's recommendations, the Board established the following goals as its highest priorities:
  1. Polysomnography, Pulmonary Function Testing, and Hyperbaric Oxygen Therapy Regulation
  2. Newsletter (published in March and September)
  3. Law and Professional Ethics Course
  4. Home Care Reform Action Plan
- ☺ Collection of Outstanding Costs: Following the passage of AB 1777, the Board moved forward with establishing a collection agency contract to attempt to recover a substantial amount of delinquent and outstanding costs. These costs primarily result from disciplinary decisions where respondents have been ordered to pay the costs expended by the Board on investigating and prosecuting their cases. The Board is extremely pleased that this alternate recovery mechanism is now available and is optimistic that, based on collection recovery statistics, it will potentially recover $315,000 during the first two years of the contract and approximately $75,000 each year thereafter. *...Continued on page 6*

Policy on Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Respiratory Care Board of California does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities. The Executive Officer of the Board has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator.

The Respiratory Care Board of California

Pictured from left: Gopal D. Chaturvedi, Kim Cooper Salinger, MBA, RRT, Vice-President, Scott J. Svonkin, President, Barbara M. Stenson, RCP, Eugene W. Mitchell, Larry L. Renner, RCP, Gary N. Stern, Esq., Richard L. Sheldon, M.D.

Polysomnography, Pulmonary Function Testing, and Hyperbaric Oxygen Therapy Proposed Regulation

At the Board's November meeting, unanimous support was given to the Professional Licensing Committee's (PLC's) proposal to move forward with gathering additional information in pursuit of regulating the practices of polysomnography, pulmonary function testing and hyperbaric oxygen therapy.

In 2001, when the Board underwent its sunset review by the Joint Legislative Sunset Review Committee, it identified the lack of regulatory oversight for home medical device providers, pulmonary function and polysomnography technicians. The Board expressed its concern for the lack of quality control and tasks being performed by unlicensed and/or unqualified personnel. Upon its review, the Joint Committee supported the Board's effort to review the function and skill of currently unlicensed technicians and its further study to determine the need for regulation.

Since then, the PLC, chaired by Larry L. Renner with Richard L. Sheldon, M.D. as its member, has identified several unregulated practices that are emerging and that have profound effects on the consumers of California. Separate from the practice of respiratory care in the home setting, the PLC is addressing polysomnography, pulmonary function testing and hyperbaric oxygen therapy as the three practices foremost in need of regulation. Each speciality is currently being performed by RCPs, other licensed personnel and non-licensed personnel. There is no regulatory oversight to ensure personnel have appropriate education and training, are competency tested, or obtain continuing education as necessary for different types of personnel in each discipline. Furthermore, unlicensed personnel are not subject to criminal background checks. Stand-alone facilities or locations, other than hospital-based facilities, where polysomnography and hyperbaric oxygen therapy is performed, also lack regulatory oversight.

The PLC's proposal as presented in November was to develop a plan for Board certification of these specialties. The PLC's *initial concept* for achieving this would result in allowing licensed and non-licensed personnel to obtain certification through a "grandfather provision." Those personnel who achieved certification through this provision and maintained current certification, would not be required to obtain or maintain RCP licensure to practice in the specific field where certification was current. However, once the grandfather provision expired, any person choosing to practice in one of these specialties, who didn't already hold current certification, would be required to obtain and maintain current RCP licensure as well as current certification.

Since November, when the Board identified this endeavor as its highest priority, Board staff have met with representatives currently working in each of these areas. The representatives expressed support for some form of regulation but valid concerns were also raised. The most notable concern was the ability to fill vacancies, given the already existing shortage of RCPs. Though many agreed that if certification requirements were established, education programs would follow, thereby broadening the pool of qualified personnel.

The PLC set a 2-year period (ending in Summer 2005) to conduct research and gather input from all interested parties, prior to reporting its findings and making a recommendation to the Joint Legislative Sunset Review Committee through its 2005 sunset review process. The PLC recognizes that there are numerous stakeholders who will have input and some have already expressed opposition to similar actions taken by other states. The PLC has expressed that it wants to make sure serious consideration is given to input from all interested parties. The Board's goal is to ensure consumer safety and believes regulation of these practices support this. However, while the PLC developed its "initial concept" of that regulatory process as noted above, it also stresses that *this is an open process and the "concept" is subject to change.*

The PLC urges all interested parties, including all licensed RCPs who work in these fields, to send your contact information to the Board so you can be included in future discussions or surveys. Your input is important! Please send an E-mail with your contact information and the practice(s) you are interested in to Stephanie Nunez, Executive Officer at rcbinfo@dca.ca.gov as soon as possible.

The PLC urges all interested parties, including all licensed RCPs who work in these fields, to send your contact information to the Board so you can be included in future discussions or surveys. Your input is important!

Mission Statement

The Respiratory Care Board of California's mission is to protect and serve the consumer by enforcing the Respiratory Care Practice Act and its regulations, expanding the delivery and availability of services, and promoting the profession by increasing public awareness of respiratory care as a profession and supporting the development and education of all respiratory care practitioners.

Updates *(continued from page 4)*

- Foreign Education: SB 363 (statutes of 2003) made changes to the education review and approval process for foreign-trained applicants. Specifically, effective January 1st, any applicant who provides documentation that he or she has completed a respiratory care program approved by the Canadian Board for Respiratory Care and holds the equivalent of an Associate Degree or higher will be deemed to have satisfied the education requirement. However, any individual whose application is based on a diploma issued by any other foreign respiratory therapy school will be required to enroll in an advanced standing respiratory program, approved by the Committee on Accreditation for Respiratory Care (CoARC), for evaluation of his/her education and training. These welcomed changes are viewed as additional tools to ensure that individuals who apply for licensure meet the minimum standards established to ensure safe and competent practice.

- PLEMS: In mid-November, the Board received word that in light of the current fiscal challenges facing the State, the Department of Finance had suspended review of the Department of Consumer Affairs' feasibility study for the Professional Licensing and Enforcement Management System (PLEMS) project. The Department of Finance acknowledged the merits of the PLEMS proposal, but was not convinced the project is essential, noting that many other meritorious proposals could not be considered. As reported in the last edition of the Respiratory Update, the primary goals of the PLEMS project were to replace the antiquated systems currently being utilized and to establish the availability of online licensing transactions for all of the Department's boards and bureaus. In light of the project suspension, Ms. Nunez has requested that the Board be considered for an alternate e-government program under review, which would allow for on-line license renewal and payment by credit card. We will continue to keep you posted regarding this issue.

New! Retired License Status

Beginning January 1st of this year, licensees now have the option of placing their license in a retired status. What exactly does "retired status" mean? It means that a licensee may request that his or her license status be updated to "retired," relieving the licensee from all renewal and reporting requirements without his or her license labeled "delinquent" or "canceled," while still continuing to receive newsletters and other similar information. An important thing to consider before making a decision to place your license in a "retired status," is that this status rescinds all privileges to practice respiratory care in California. If you think this is something you may be interested in, please contact the Board's office to obtain additional information and a Request for Retired Status form, which can also be obtained by visiting the Board's Web site at www.rcb.ca.gov and clicking on the "Licensing" link.

Fees and Budget Reflections and Projections

"The Board's fees are too high!" This is the top complaint the Board has received over the years and is generally accompanied by a comparison to nursing fees. More recently, the complaint has been specific to the Board's renewal fee. The Board welcomes this as well as feedback from all parties because it assists the Board in shaping future policy. In fact it was in 2001, at the height of such comments, when the Board last restructured its fee schedule and developed a collective mind-set to re-evaluate current policies and their operational efficiency, explore alternative revenue sources, as well as ensure fiscal impact is given serious consideration prior to making future policy changes effectuating its mandate.

In 2001, many licensees expressed the need to reduce applicant fees, stating the fees were excessive and deterred students from entering the field, ultimately jeopardizing patient care. As a result, the Board compared its fees with fees charged by other boards. The comparison (available in the January 2002 issue of the *Respiratory Update*) confirmed the Board's belief that the number of licensees a board regulates is a major contributing factor in fee amounts; boards with higher volumes charge lower fees. However, the Board believed its application fees were excessive and growing reports of the RCP shortage prompted the Board to restructure its fee schedule. At that time (2001), the Board's expenditures were exceeding its revenues by more than $500,000. So while applicant fees were reduced dramatically, the Board hesitantly agreed to compensate for the loss of revenue by increasing the renewal fee (from $200 to $230) with the understanding that the Board would work toward preventing future increases and possibly realize a future renewal fee reduction. A growing number of complaints that the renewal fee was too high soon followed, to which the Board publicly lent its support. Many members have validated licensees' comments and also expressed concern that this criticism could also deter people from the profession.

Since then, the Board has made a concentrated effort to improve its overall efficiency while fulfilling its mandate.

Since then, the Board has made a concentrated effort to improve its overall efficiency while fulfilling its mandate. Although the Board's overall budget is affected by numerous variables, following are the most significant 1) reductions and augmentations to the Board's annual budget appropriation, 2) reductions in expenditures, and 3) alternative revenue sources and a reimbursement collection method that have evolved since 2001, followed by the most significant expenditures and fees outside the Board's control.

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RCP Recognition Nominations

Do you know a respiratory care practitioner who has extended an extra measure of care? The Respiratory Care Board would like you to nominate a member of the respiratory care community who deserves recognition for rendering exceptional service and care to a patient, colleague or the profession. The established criteria for recognition include values relative to service, dignity, responsibility, teamwork, trust, and accountability.

Help the Board identify and recognize deserving practitioners by completing a nomination form available on the Board's Web site at www.rcb.ca.gov. Nominations can be electronically submitted, or you may print a copy of the nomination form, which can then be completed and returned via fax or mail.

Once the Board has received a minimum of 5 individual nominations, it will review each nomination and vote on who is most deserving of recognition based on the established criteria and how the individual's accomplishments relate to the mission of the Board. The individual will then be recognized, on behalf of the entire respiratory care community, at a future Board meeting and in an upcoming edition of the *Respiratory Update*.

We Want to Hear from You

If you have issues, concerns or ideas you think would better serve the consumers of California or the respiratory care profession, we want to hear from you. E-mails can be addressed to rcbinfo@dca.ca.gov.

2004 Board Meetings

The Respiratory Care Board of California's meetings and strategic planning session for 2004 are tentatively scheduled as follows:

Board Meeting
Thursday, June 24, 2004
San Diego

Board Meeting
& Strategic Planning Session
Thursday & Friday
October 14 - 15, 2004
Sacramento

All meetings (including the Strategic Planning Session) are open to the public. The Board welcomes and encourages your attendance!

Please visit our Web site at www.rcb.ca.gov for more information on meeting dates, times and locations. Agendas for upcoming meetings are posted 10 days prior to meeting dates.

"Hey Kim, You're on The Board – Can Ya Help Me Out?"

Common questions to a board member about the RCB, renewal fees, and stuff in-between.

An editorial written by Kim Cooper Salinger, MBA, RRT, Vice-President

Kim Cooper Salinger, MBA, RRT
Vice-President

I've been on the board for almost 2 years now, and I can say that once someone realizes I'm a board member I usually get all kinds of questions and requests. Everything from "When is my renewal due?" to "My buddies license is being reviewed for a violation, can you help him out?" In both instances, I can't give the answer the person wants to hear, and here's why…

The California Respiratory Care Board (RCB) is set up very much like a non-profit corporation. You have the folks who do all the day-to-day work and they extend from the receptionist Anna, who you typically hear first when you call with a question, to the Executive Officer Stephanie, who runs the entire "business," and is equivalent to the CEO of a company or Director of a Hospital.

Separate from all that, is the board, made up of the actual board members, who primarily work on projects and such things as goals and direction, and planning for the future. If you think about it, all hospitals and big businesses have a board, however they tend to be more in the background, and you don't really hear about them too much.

In reality, the RCB is pretty much the same way, except since the name of the "business" is "Respiratory Care *Board*," it gives the impression that it is different, and that it consists solely of the board members, who are all seeing, doing, and knowing about every aspect of the business, with a few support staff doing "secretarial" type tasks. Yet nothing could be further from the truth.

If it wasn't for Stephanie's leadership abilities and her skilled staff *nothing* would ever get done, as they do 98% of all the work. Unfortunately, as a government agency affected by the California budget woes, several positions have been cut, and remaining staff have had to take a pay cut, despite the fact the amount of work continues to increase every year. The board is lucky to have such a dedicated group.

So if they're doing all the work, what do the board members do?

As a board member, I attend quarterly meetings and vote on initiatives and various cases, but mostly I work on projects, usually as assigned to the board committees on which I sit. I've worked on such things as reviewing how we should change the CEU requirements in order to assure California practitioners are practicing at the top of their game; to researching and comparing the education and training offered by CoARC accredited programs to those that do not have CoARC accreditation *(to which I discovered there are good reasons why the NBRC requires applicants to graduate from CoARC accredited programs…)*.

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Scope of Practice Inquiries

Inquiry: I am writing a question regarding our Scope of Practice laws in section 3702. Specifically can RCP's assess and treat an emergency room patient using a "standing order" or Protocol without the physician first seeing the patient. In our ED, nurses are seeing patients and determining that they need Respiratory Care based on a "standing order." They then call their RCP to give the treatment without a written order on the chart. The physician would then add the order after they actually see the patient. Are RCP's protected under this practice?

Response: There is a distinction between a standing order and a protocol. A standing order, also referred to as a blanket order, has been highly discouraged by the DHS for many years as an unacceptable and unsafe practice. A protocol on the other hand is a policy or document that applies specific clinical signs and symptoms to a patient for the purpose of appropriate treatment. Examples of these would be PEFR measurements with specific treatment options designed against the assessment results. Other clinical signs could also include FEV1.0, SVC, FVC, heart rate, respiratory rate or any other assessment criteria used to conduct a complete pulmonary assessment. With the appropriate criteria developed and approved by the hospital medical staff and its administration, it would be perfectly acceptable and within the scope of the RCP to perform the assessment and treat the patient against such a protocol.

Overall, this does not appear to be a scope of practice issue nor is there any suggestion that you would be performing in an unprofessional manner. There may, however, be separate concerns involving the hospital and the other professionals involved as to whether the standing order procedure constitutes an adequate standard of care.

Inquiry: Would it be within legal guidelines to have EMTs perform BASIC respiratory therapy in a medical surgical floor and oncology floor unit? By BASIC, I mean services such as, oxygen therapy, CPR, skilled nursing basic respiratory care services, nebulizer treatments and assessing breathing sounds and vital signs. I would have RCPs performing assessments, consulting and evaluating patients on the medical surgical floor and oncology floor unit. More of the critical thinking skill level procedures. What are your thoughts?

Response: The Board can respond specifically to the services of oxygen therapy, nebulizer treatments and basic respiratory care services. It is the Board's opinion that these services must be performed by a licensed practitioner. As such, unlicensed personnel should not be allowed to perform these duties.

Current legislation was recently passed that gives the Board authority to cite and fine unlicensed personnel who perform duties that are classified as those to be performed by a licensed practitioner.

Inquiry: I am the manager of a Hyperbaric /Wound Care Department in a community hospital. The department is staffed primarily with RCPs. We recently conducted a survey of the unit by the Undersea & Hyperbaric Medical Society. Several issues were identified by one of the nurse surveyors regarding procedures performed by staff that was considered outside the RCP scope of practice.

The role of the RCP in this department includes provisions of hyperbaric oxygen therapy under the order of a privileged physician, and assisting physicians during wound clinic. The RCPs measure and apply dressings and ointment to wounds. They also accept and write telephone orders from Wound Care physicians for antibiotics, anti-anxiety medications, pain medications, durable medical equipment and home-care services. Through physician order, the staff also arranges lab tests including blood tests, MRI, CT, bone scans and bone biopsies.

All patients treated in the clinic are initially assessed by a Wound Care physician and reassessed as indicated by their clinical condition. The physicians are not required to be present during the administration of all HBO therapy; therefore some patient assessment is performed by the RCPs specifically related to HBO. This would include response to HBO therapy, ankle brachial index studies, assessment for pain, and transcutaneous oxygen monitoring.

The physicians and staff in this area have received extensive training related to HBO and wound management. Competencies for the staff are completed annually by the Medical Director of the unit.

Do these activities performed by the staff fall within the RCP scope of practice in the state of California?

Response: After careful review of your inquiry regarding the Hyperbaric /Wound Care Department in a community hospital setting, the Board offers the following opinion:

The skills and duties you have outlined are not outside the scope of a licensed RCP. Section 3701 of the Practice Act clearly recognizes the existence of overlapping functions between physicians and surgeons, registered nurses, physical therapists, and other health care providers. Its intent was to permit sharing of functions within organized health care systems.

With regard to training of personnel on overlapping functions, the onus is on the organized health care system to determine and institute appropriate training and competencies that would provide this function in a manner that would be safe when administered to the public.

Inquiry: I would like to know if Respiratory Care Practitioners/Therapists can have state and/or federal drug certificates (like DEA and controlled dangerous substance certificate).

Response: The Board does not regulate state or federal certificates regarding controlled dangerous substances. We would recommend that you contact the Board of Pharmacy and the Food and Drug Administration to have your question answered. Their contact information is provided below for your reference:

California Board of Pharmacy
400 R Street, Suite 4070, Sacramento, CA 95814
Phone: (916) 445-5014 Fax: (916) 327-6308
www.pharmacy.ca.gov

U. S. Food and Drug Administration
5600 Fishers Lane, Rockville MD 20857-0001
1-888-INFO-FDA (1-888-463-6332), www.fda.gov

Inquiry: I work for a company that manufactures a blood gas analyzer that can report bilirubin. Is it legal for California RCPs to report bilirubin along with a blood gas?

Response: The question you asked regarding the ability of a licensed RCP to report an analyzed bilirubin is somewhat of a dichotomy. Obviously, the instrument is capable of measuring the bilirubin as outlined in the manual and as long as the user follows the manufacturer's quality control and maintenance schedule. However a bigger question would be where the organization has determined the appropriate and consistent bilirubin should be reported from. If the organization has purchased the device and intends on using it exclusively to report its bilirubins, then it would be appropriate for an RCP to report the value. That is assuming that the device is operated in a blood gas laboratory or cardiopulmonary laboratory that is staffed by licensed RCP's. It would also be equally appropriate to have the device operated within the organizations clinical laboratory where values would be reported by the appropriate laboratory personnel. In other words, the onus is on the medical facility to determine if duplicate results are acceptable or not at their facility.

It should be noted that if the organization has purchased the analyzer to function primarily as its blood gas analyzer and has established that the reporting standard for bilirubin is other than the radiometer device, then the reporting of these bilirubin values may not be appropriate and may actually cause confusion and potential harm to a patient.

Inquiry: In many hospitals, there has been an increase in the practice of Respiratory Therapists performing multiple treatments on different patients at the same time. It is my understanding this is not an acceptable practice as this is unsafe for the patient. I am requesting an opinion from the Board on the practice of Respiratory Care Practitioners performing treatments on more than one patient at the same time.

Response: The mandate of the Respiratory Care Board is to protect and serve the consumer by administering and enforcing the Respiratory Care Practice Act and its regulations in the interest of the safe practice of respiratory care. We can only do that as unsafe practices are reported to the Board.

The Board has adopted the AARC Clinical Practice Guidelines as its reference in determining what is safe and what would be considered unsafe. We would recommend that organizations use this document to develop appropriate policies and procedures for administration of respiratory care services within their facility.

As a Board, we would strongly discourage any organization from adopting a policy which leaves patients unattended for administration of medication. This practice would make it impossible to monitor patient reaction (particularly adverse) and/or benefits the patient may receive from the medication and treatment.

In addition, unattended therapy may be considered self-administered therapy and not qualify as billable. We would recommend therefore, that you contact Medicare directly. Their contact information is listed below for your reference.

Toll Free Telephone: 1-800-MEDICARE (633-4227)
Web site: www.medicare.com

Scope of Practice on the Web

Scope of practice Inquiries and responses are also available on the Board's Web site.

Please visit:

http://www.rcb.ca.gov/scopeofpracmain.htm

to review inquiries and responses processed over the last 2+ years.

Fees and Budget Reflections and Projections *(continued from page 6)*

Budget Appropriations

The Board's budget appropriations are specific amounts authorized by the Legislature for the Board to carry out its operations on a fiscal year basis (July - June). The Board's total budget appropriation was $3,064,000 in FY 01/02 and $2,660,000 in FY 02/03 and is currently $2,476,000 for FY 03/04. Since 2001, the Board has not made any requests to augment its budget appropriation or increase staffing levels. In fact, the only change requested by the Board was for an appropriation reduction. However, augmentations to its budget have been made outside the control of the Board.

In FY 02/03, the Board's budget appropriation was reduced from $3,064,000 to $2,660,000 as a result of abolishing 4 staff positions ($162,000), removing one-time costs for an occupational analysis, of which, no monies were expended ($122,000), and reducing investigative costs ($163,000). These reductions were offset with increases to pro rata and employee benefits with an overall appropriation reduction of approximately $404,000 from FY 01/02 to FY 02/03.

Thankfully, when made aware of the situation, each member was quick to forego their per diem to minimize the number of layoffs; a generous act which displayed their level of commitment to the Board and its mission.

In FY 03/04, the Board's budget appropriation was reduced from $2,660,000 to $2,476,000. The FY 03/04 State Budget Act proposed in early 2003, included an 855 million dollar reduction in employee compensation. Because there was debate on the exact amount to be reduced and the uncertainty between labor and state negotiations, the Board, as well as all state agencies, were subject to a number of drills reducing its personnel services anywhere from 10% to 20%. Thankfully, when made aware of the situation, each member was quick to forego their per diem to minimize the number of layoffs; a generous act which displayed their level of commitment to the Board and its mission. Ultimately, the Board's personnel services appropriation was reduced by 12% or $121,043 which included the loss of two staff members, a reduction in time-base for one staff member, and elimination of overtime and per diem appropriations. In addition, budget reductions were made to the Office of the Attorney General line item as requested by the Board ($132,000), and out-of-state travel was suspended ($9,000). These reductions were offset with increases to pro rata and employee benefits with an overall appropriation reduction of approximately $185,000 from FY 02/03 to FY 03/04.

The Board is currently scheduled for a $2,374,000 appropriation in FY 04/05, however, this figure is subject to change until the passage of the FY 04/05 Budget Act.

Budget Expenditures

Expenditures are amounts of an appropriation that are used for goods and services whether paid or unpaid. The Board's total expenditures were $2,650,000 in FY 01/02 and $2,214,000 in FY 02/03. However, the Board is projecting expenditures to increase to nearly $2,290,000 this fiscal year (FY 03/04) as a result of increases in employee benefits, pro rata, and the Office of the Attorney General and the Office of Administrative Hearing rates. Significant expenditure reductions or savings include:

* *Enforcement/ Investigation:* Approximately $160,000 per year in savings was achieved as of FY 02/03 compared to FY 01/02. *Contributing factors*: In FY 01/02, internal policies were changed and program revisions were made so that Board staff would be more successful in conducting paper investigations. In 2002, the Legislature granted the Board's request for additional authority to obtain records and documents which has resulted in nearly all paper investigations being performed in-house.
* *Enforcement/ Attorney General:* Approximately $100,000+ in savings for both FY 01/02 and FY 02/03. *Contributing factors:* Establishing In-House Review Penalty Determinations and streamlining processes. Due to substantial increases in the Office of the Attorney General's hourly rates effective April 1, 2004, the board will be hard-pressed to maintain these reductions (see "Expenditures and Fees Outside Board Control").
* *Enforcement / Attorney General:* An estimated savings of $40,000 (or more if using the increased hourly rates effective April 1, 2004) per year beginning in October 2003. *Contributing factor*: With the implementation of the Board's citation and fine program, the Board expects a substantial number of cases to qualify for the issuance of a citation and fine which is processed in-house rather than a formal reprimand processed through the Office of the Attorney General.
* *Enforcement / Staffing:* An estimated savings of $140,000. *Contributing factors:* Since April 2001, 3.5 positions located in the Enforcement Unit were vacated and not filled from behind. Rather, processes were reviewed and streamlined to accommodate workload.
* Enforcement /In-State Travel: An estimated savings of $15,000/year beginning July 2004. *Contributing factor*: In February 2004, the Board established a new random drug testing program which will reduce travel by probation monitors once fully implemented. Monitors will assume workload associated with the Board's new citation and fine program.
* *Cost Recovery Collections*: An estimated $45,000 per year deposited in the Board's fund. *Contributing factor:* In March 2003, the Board developed a database housing outstanding cost recovery and probation monitoring costs and began regular monthly invoicing. As a result, an additional $45,000 has been collected for outstanding investigative and prosecution costs for the period covering March 2003 through February 2004, when compared to the previous year. However, it should be noted that reimbursement for probation monitoring was reduced by approximately $50,000 during this same period as a result of legislation that allowed 52 probationers to terminate probation early.

* *Administration/ Staffing*: An estimated savings of $80,000. *Contributing factors:* Since April 2002, 1.5 positions located in the Administration Unit were vacated and not filled from behind. Rather, processes were reviewed and streamlined and minimal overtime (compensated with accruing time-off) is performed to accommodate workload.
* *Examination:* An estimated savings of $122,000 plus. *Contributing factor*: Successful negotiations with the National Board for Respiratory Care (NBRC) in FY 01/02 alleviated the Respiratory Care Board's need to conduct its own occupational analysis.
* *Licensing / Staffing:* An approximate savings of $20,000. *Contributing factors:* Since September 2003, 1 seasonal position located in the Licensing Unit was vacated and not filled from behind. Rather, processes continue to be re-evaluated, resources and services available online are being promoted (i.e. online license verification), and minimal overtime (compensated with accruing time-off) is performed to address and accommodate workload.
* *Out-of-State Travel*: Approximately $5,000 per year in savings when compared to expenditures prior to FY 01/02. *Contributing factors:* In FY 01/02, the Board dramatically reduced out-of-state travel; In FY 02/03, state agencies were directed to eliminate out-of-state travel all together.
* *In-State Travel*: Approximately $27,000 per year in savings based on expenditures in FY 99/00. *Contributing factors*: Since the mid to late 90's the Board has always tried to limit in-state travel expenditures associated with Board meetings. In FY 01/02, the Board reduced the number of meetings it held per year for the purposes of costs savings and operational efficiency. In FY 02/03, state agencies were directed to reduce in-state travel expenditures; in response, the Board continues to limit its meetings to 2 meetings per year and has changed its meeting start times to reduce overnight travel whenever possible.
* *Shared Services:* Approximately $10,000 in savings per year. *Contributing factors*: Sharing the Board office telephone system, computer lines and other services with agencies at the same location.
* *Contracts*: Savings of $2,200 per year in savings. *Contributing factor*: In FY 01/02, the Board eliminated the use of an off-site storage facility.
* Preparation of Sunset Review Reports (2001 & 2005): An estimated savings of $20,000. *Contributing factor*: Since the Board began the Sunset Review Process in 1997, it has always prepared its reports in-house. While many other boards have the means to hire consultants, the Board estimates that it saves as much as $10,000 per each Sunset Report.

<u>*Revenue and Reimbursements*</u>

Revenue is the addition of cash or other current assets which do not increase any liability and do not represent the recovery of an expenditure. Reimbursements represent the recovery of an expenditure (i.e. cost recovery). Since the Board's fee schedule was restructured in 2001, the Board has not increased any fees. Alternative revenue sources and a reimbursement collection method that have evolved since 2001 include:

* *Newsletter Advertising:* $11,200 in revenue deposited in the Board's fund to date. *Contributing factor*: In FY 01/02, the Board began accepting advertisements in its newsletters to offset publication and distribution costs.
* *Enforcement / Citation and Fine Program*: An estimated $25,000 in additional revenue to be deposited into the Board's fund annually. *Contributing factor:* The Board's citation and fine program attained full force and effect in October 2003. Fines are generally less than what would have been charged by the Office of the Attorney General for their services and ultimately requested from the licensee in the form of cost recovery.
* *Collection Agency Contract*: An estimated $315,000 (one-time) and $75,000 (ongoing) in reimbursements. *Contributing factor:* Effective January 1, 2004, the Legislature gave the Board the authority to contract with collection agencies in an attempt to recoup outstanding costs, fees, and fines. In February 2004, the Board completed the contract bid process and awarded the contract to an agency. Collections are expected to begin in March 2004.

<u>*Expenditures and Fees Beyond Board Control*</u>

The most significant expenditures and fees beyond the Board's control include:

* Personnel Services: The Board has some control over its staffing levels but salaries and benefits are negotiated by unions and the Department of Personnel Administration. Since April 2001, no new hires have been made and 6 positions have been vacated and not filled from behind. Various "freezes" have also prevented staff promotions. Yet due to increases in employee benefits, actual expenditures for personnel services have increased from $1,047,000 in FY 01/02 to $1,086,000 in FY 02/03. Personnel services for FY 03/04 are projected to reach $1,130,000.
* Pro Rata: Pro rata is a set amount charged to each State agency each year. Boards under the Department of Consumer Affairs (DCA) are assessed an amount for direct and indirect services provided by the DCA as well as indirect services provided by other State agencies. This amount is generally close to 18% of the Board's actual expenditures. Pro rata increased from $382,000 in FY 01/02 to $399,000 in FY 02/03. Pro rata for FY 03/04 is scheduled at $367,000.

...continued on page 15

The Office of the Attorney General is increasing its hourly rates effective April 1, 2004: the attorney rate climbs from $112/ hour to $132/ hour and the paralegal rate leaps from $53/hour to $91/hour.

"Hey Kim, You're on The Board – Can Ya Help Me Out?" *(continued from page 7)*

What I don't do or know as a board member is the day-to-day business aspects of the board. Such as when your renewal is due, or why there is no longer a signature block on your pocket cards. And the one thing that is REALLY touchy, that some RCP's don't understand, is that as a board member I cannot, ever, intervene on an individual's behalf. This goes for everything from "Can you push through my application? It's taking too long," to "I got a DUI, can you put in a good word with the rest of the board and get me off the hook?"

Why not? You may ask. Well, to do so would exhibit very poor professional ethics on my part. I should never do for one person what I'm not willing to do for everyone else as well. And more importantly, in regard to any case you may have with the RCB for action on your license, it would be a direct violation of section 11512 of the Government Code, which states:

> *11512:... (c) An administrative law judge* ***or agency member*** *shall voluntarily disqualify himself or herself and withdraw from any case in which there are grounds for disqualification, including disqualification under Section 11425.40.*

And under section 11425.40 it states:

> *11425.40.(a) The presiding officer is subject to disqualification for bias, prejudice, or interest in the proceeding.*

In essence, this means that if I know you, I cannot be involved in your case. I must disqualify myself from participation and cannot attempt to influence the outcome in any way. This is referred to as "recusing" oneself from the vote.

> *"Recuse" is defined as, "to disqualify or withdraw from a position of judging, as because of prejudice or personal interest."* Webster s New World Dictionary, Third College Edition, 1988

So please know if you ask me or any other board member for help or favors, that it would be a violation of trust for our positions – both ethically and legally, so we must say no.

And lastly, a reoccurring question I receive from RCP's is "Why is our licensure fee so high? Don't you realize it's outrageous?!?" Yes, everyone from the staff to the board members realize it is high in comparison to other states and licensures. Those of us on the board who are RCPs pay the same fee as you.

The RCB is a not-for-profit entity, so it's not sending anyone big fat profit checks from your dues. A large amount of the money goes towards required services provided by other agencies or companies. Believe me, we are reviewing our various programs and contracts with other agencies and companies to see where we can trim expenses in order to decrease licensure fees. And know that as inflation and costs have gone up, your dues have not. As a governmental agency, the board must follow government rules, use government contracted agencies, and fulfill other governmental regulations, which all have an impact on expenses, and which in turn affect the licensure fee.

Just like my answer to those RCPs who want me to help them out with board issues, my answer about the licensure fee may not be the one you want to hear. However, I hope you at least have a better understanding of board members, staff, RCB operations and why my answers are as they are.

Disciplinary Actions Taken Definitions

Final Decisions become operative on the effective date, except in situations where a stay is ordered. This may occur after the publication of this newsletter.

An **Accusation** is the legal document wherein the charge(s) and allegation(s) against a licensee are formally pled.

A **Statement of Issues** is the legal document wherein the charge(s) and allegation(s) against an applicant are formally pled.

An **Accusation and/or Petition to Revoke Probation** is filed when a licensee is charged with violating the terms or conditions of his or her probation and/or violations of the Respiratory Care Practice Act.

To order copies of legal pleadings, please send a written request, including the name and license number (if applicable), to the Board's Sacramento office or E-mail address.

Career Outreach

In 2001, the Board developed a comprehensive strategic plan which included its goal to increase the number of qualified and competent RCPs in California to address the growing reports of the RCP shortage.

In 2002, the Board developed a color brochure regarding the profession and began attending and coordinating professional representation at various high school career days and career fairs throughout California.

Due to recent reductions in staffing levels, the Board is unable to continue this effort in 2004. However, last January President Svonkin approached the California Society for Respiratory Care who graciously and enthusiastically agreed to continue with this effort.

The Board is optimistic that once performance measures are performed, it can attribute an increase in licensees to the joint efforts made by the Board and the CSRC.

Disciplinary Actions Taken

July 1 - December 31, 2003

FINAL DECISIONS REVOKED OR SURRENDERED

Adams, Suzette M. RCP 20226
Austin, Pamela Jean RCP 17565
Biggs, Jeffery Alan RCP 10231
Camonayan, Reden M. RCP 14031
Diel, Jonathan G. RCP 18610
Eckert, Lewis Dewayne RCP 13680
Ferguson, Cleophas Jr. RCP 2340
Horton, Wilbur Joseph RCP 3515
Ivie, Richard John RCP 14622
King, Donald Alan RCP 14150
Martinez, Alexander RCP 14703
Nada, Mohamed RCP 11889
Oehmen, Judith Immen RCP 18516
Releford, Steven Wayne RCP 21481
Tuliau, Christopher RCP 21890
Turner, Donna P. RCP 17064

OTHER DECISIONS

Gouge, Chris M. – Denial
Velasquez, Raymond Jr. – Denial

PLACED ON PROBATION / ISSUED CONDITIONAL LICENSE

Barry, Roger Lamar RCP 15692
Benajan, Charles Louis RCP 23106
Bolivar, Raymundo RCP 19262
Corridon, Larry D. RCP 5911
Dodds, David Michael RCP 23370
Egert, Janet S. Haynes RCP 4247
Ferrante, Robert C. RCP 12827
Forsyth, Richard Allan RCP 4558
Garber, Jennifer Ann RCP 18297
Gruzd, Lynda M. RCP 4790
Kaplan, Harris RCP 8118
Narvaez, Alexander B. RCP 21371
Tam, Seven Tom RCP 53
Tuthill, Cynthia L. RCP 18575
Vasquez, Jose Ramon RCP 23047
Viveros, Christopher R. RCP22287
Wessa, Jeffery Mark RCP 14349

PUBLIC REPRIMANDS

Adams, Terry RCP 13606
Aloy, Howard Anthony RCP 18527
Berry, James RCP 3230
Blanche, Darrick M. RCP 21593
Boyle, Douglas Michael RCP 9518
Brewitz, Raymond Paul RCP 17365
Brown, Karla R. RCP 13828
Falls, Douglas Lee RCP 8272
Gambina-Gordon, Rica L. RCP 3371
Hackworth, Deborah A. RCP 16953
Higa, Kevin Kiyoshi RCP 16803
Ibarra, Jacob RCP 20564
Karol, Steven David RCP 9354
Kielmayer, Robert M. RCP 22368
Kurilchick, Gary S. RCP 20861
Love, Irene A. RCP 16297
Luevano, Juan Carlos RCP 5837
Lujan, Mia E. RCP 21761
Mallett, Julie Delores RCP 6128
Pierce, Richard RCP 16504
Scott, Kamtra RCP 20518
Sunderman, Peter J. RCP 21930
Tan, Alberto Domingo RCP 10629
Thomas, Karen Ann RCP 2874
Virula, Joseph Alfred RCP 9809
Vitthal, Ritu RCP 20264
Wadford, Aubrey RCP 20240
Webb, Edward Alan RCP 14598

CITED & FINED

Alfaro, Feliza RCP 21843
Barden, Jacklyn RCP 1625
Bolouri, Sam RCP 12325
Carr, Christine M. RCP 22108
Courtney, Susan Marie RCP 19182
Di Giuro, Kimmia J. RCP 19777
Espinoza, Jacinto RCP 17008
Fulbright, Richard RCP 16807
Harris, Geoffrey Allen RCP 21291
Hurdle, Sylton C. RCP 22566
Johnson, Kathryn A. RCP 9159
Lucas, Margaret A. RCP 18579
Ly, Menh RCP 21971
Madrid, Connie RCP 15213
Mardanzai, Nargess RCP 18752
Martin, Magda RCP 22135
McCormick, Patrick RCP 14398
Meza, Oscar Eliu RCP 20374
Michaels, Nancy M. RCP 15019

CITED & FINED Continued

Millimaki, James A. RCP 21032
Morley, David J. RCP 20734
Nurmi, Paul RCP 419
Ramos, Patrick C. RCP 21797
Rodham, Tamara RCP 2565
Rubottom, Jaclyn Ann RCP 14074
Smith, Kem R. RCP 14015
Souza, Veronica Dawn RCP 21335
Summers, Michell L. RCP 11275
Vega, Gabriela RCP 21445
Wilson, Janet T. RCP 7544

ACCUSATIONS

Bailey, Joyce E. RCP 10463
Berdrow, John Robert RCP 6761
Berg, Robert Charles RCP 3492
Brown, Gayla Marie RCP 16864
Caluag, Jose Deleon RCP 19455
Chilson, Beverly J. RCP 6217
Claridy, Robert L. RCP 17919
Cubbin, Richard RCP 1347
Dodds, Laura RCP 21067
Ellis, Kendra Kaye RCP 22137
Gatchell, David F. RCP 22524
Geesman, Robin Ann RCP 19549
Hernandez-Castillo, R. RCP 19356
High, Jayson Scott RCP 16591
Hill, David W. RCP 9670
Hunter, Kim Anthony RCP 11849
Johnson, David A. RCP 13732
Johnson, Rondalee RCP 11661
Joseph, Benny Punnen RCP 20504
Kim, Wesley Sang RCP 15217
Legere, Bill Joseph RCP 3520
Nichols, James R. RCP 6478
Porche, Ronland B. RCP 13562
Quint, Eric Alden RCP 3113
Richman, Pamela Anne, RCP 20063
Rocero, Roy Allan Sr. RCP 14982
Rosenfeld-Coty, Terry RCP 8437
Santana, Sherri Ann RCP 20067
Sousa, Bonnie RCP 17084
Stratton, Stephen RCP 19339
Straw, Valerie Jean RCP 14098
Unutoa, Irene RCP 9267

ACCUSATIONS AND/OR PETITIONS TO REVOKE PROBATION

Baranczyk, Terry Lynn RCP 5607
Beljan, Gerald RCP 15317
Diwa, Jonathan T. RCP 22785
Greenwood, Thomas Wayne RCP 12066
Horrell, Crystal Ann RCP 22654
Huch, Steven RCP 4904
Steed, Reginald Decarlo RCP 10870
White, John David RCP 11059

STATEMENTS OF ISSUE

Blanco, Cynthia
Butenko, Nataliya S.
Connel, Allan A.
Mahoney, Kevin
Stabile, Valentino Daniel

CSRC
CALIFORNIA SOCIETY FOR RESPIRATORY CARE

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Speakers include:
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Exciting topics including: Top Ten Ways to Get Sued for Malpractice, Reimbursement Challenges, How to Negotiate Anything, NPPV, New Directions in Sleep Medicine, Ethics and End of Life Care The Value of the RCP at the Bedside, and much more!

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Don't miss out this year!!

Mandatory Reporting

Respiratory care practitioners (RCP) and their employers are required by law to report violations of the Respiratory Care Practice Act and the regulations governing the practice of respiratory care to the Board.

RCPs are required by law to report to the Board any person that may be in violation of, or has violated, any of the laws and regulations administered by the Board. Licensees are required to make such a report to the Board within 10 calendar days from the date he/she knows or should have reasonably known that a violation or probable violation occurred.

Employers are required by law to report to the Board, within 10 days from the date of a suspension or termination of any RCP in their employment, for any one or more of the following causes:

- Use of controlled substances or alcohol that impairs an RCP's ability to safely practice;
- The unlawful sale of controlled substance(s) or prescription item(s);
- Patient neglect, physical harm to a patient, or sexual contact with a patient;
- Falsification of medical records;
- Gross incompetence or negligence, and
- Theft from patients, other employees, or the employer.

RCPs are subject to discipline and will be fined up to $2,500 and employers are subject to a fine up to $10,000 for failure to make a report as required. Consideration is given to mitigating and aggravating circumstances surrounding the case.

PLACE AN AD!

The *Respiratory Update* newsletter features current information on the business of the Respiratory Care Board of California (Board) and other matters affecting the profession.

The *Respiratory Update* is a two-color newsletter published two times each year and distributed to over 15,000 active respiratory care practitioners licensed in the State of California and to as many as 600 applicants for licensure.

If you are interested in placing an advertisement in the *Respiratory Update* or would like more information, please contact Jennifer Mercado at (916) 323-9983 or send her an E-mail at: rcbinfo@dca.ca.gov.

Fees and Budget Reflections and Projections *(continued from page 11)*

* Office of the Attorney General (OAG): While the Board has control over the number of cases referred to the OAG, it does not have any control over the hourly rates charged, nor can the Board use other attorney services to process its disciplinary cases. For this line item, the Board expended $324,000 in FY 00/01, $268,000 in FY 01/02, and $246,000 in FY 02/03. However, a substantial rate increase (the highest increase in the last decade) becomes effective April 1, 2004: the attorney rate climbs from $112/hour to $132/ hour and the paralegal rate leaps from $53/ hour to $91/hour. Since more than half of the Board's cases are handled by paralegals, the Board can expect to see a significant increase in OAG costs per case, though the Board hopes the implementation of its citation and fine program will ease the overall impact.
* Office of Administrative Hearings (OAH): The OAH bills on an hourly basis for direct services provided to the Board. The Board has approximately 20 disciplinary cases a year that are heard through the OAH. The Board expended $83,000 in FY 00/01, $70,000 in FY 01/02, and $49,000 for FY 02/03 for OAH services. However, the Board is projecting expenditures to exceed $100,000 in FY 03/04. The fee for Administrative Law Judges has gone from $140/ hour in FY 01/02 to the current rate of $161/hour. Board staff are also currently investigating a noted increase in hours billed this year (FY 03/04).

Although expenditures and fees outside the Board's control impede its progress, the Board is making headway in closing the gap between its expenditures and revenues. In FY 01/02 expenditures exceeded revenues by over $500,000. However, in FY 02/03, expenditures exceeded revenues by only $85,000. Projections for this fiscal year expect to be similar to those in FY 02/03.

The Board's fund maintains a sufficient reserve and there is no immediate threat of a fee increase. The Board is optimistic that through its continued efforts, supported by the profession and the Legislature, it can obtain fiscal solvency with its current fee schedule and possibly seek a reduction in the renewal fee or at a minimum, maintain the fee amount for a significant period of time.

The Board welcomes your feedback and encourages you to contact Stephanie Nunez, Executive Officer at (916) 323-9983 or E-mail her at rcbinfo@dca.ca.gov if you have any suggestions, complaints, or comments regarding this or any other issue.

Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814

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Address Change Notification

Remember, you must notify the Board in writing if you have changed your address of record within 14 days of such change. Failure to do so could result in a $25-$250 fine.

Your written request must include your RCP number, your previous address, your new address, and your signature.

The Board office will accept requests received by U.S. mail, faxed notifications and changes made via the Board's Web site.